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Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo

Addendum

Mission to India*

Summary

The present report contains the findings of the Special Rapporteur on violence against women, its causes and consequences, on her visit to India from 22 April to 1 May 2013. In the report, the Special Rapporteur examines violence against women in the country, including root causes and consequences, and the implications of such violence on the effective exercise of human rights by women. She also discusses the State's responses and provides recommendations.

* The summary is being issued in all official languages. The report itself, contained in the annex to the summary, is being issued in the language of submission only.

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Annex

[English only]

Report of the Special Rapporteur on violence against women, its causes and consequences, on her mission to India (22 April–1 May 2013)

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I. Introduction

1. At the invitation of the Government of India, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, conducted an official visit to that country from 22 April to 1 May 2013.

2. The Special Rapporteur would like to thank the Government for its invitation. She appreciates the opportunity provided to assess the situation directly. In New Delhi, consultations were held with officials of the Ministry of Women and Child Development, the Ministry of Home Affairs, the Ministry of Health and Family Welfare, the Ministry of Labour and Employment, the Ministry of External Affairs and the Delhi Police. The Special Rapporteur also met with the chief secretaries and State officials in Rajasthan, Gujarat and Manipur. She also held meetings with officials from the National Mission for the Empowerment of Women, the National Commission for Women and the National Human Rights Commission. The Special Rapporteur regrets that, despite her specific requests prior to and during the mission, no visits to State-run shelters, prisons or detention centres were programmed. She also regrets that no meeting was arranged with the Committee on Amendments to Criminal Law (Verma Committee).

3. The Special Rapporteur consulted extensively with civil society and victims in various locations within the country.

4. The Special Rapporteur is grateful to the United Nations country team for its support prior to and during her visit. She is grateful to all interlocutors, including survivors of violence who shared their experiences with her. She looks forward to a fruitful dialogue with the Government and other stakeholders on the implementation of her recommendations.

5. The Special Rapporteur's mission was underpinned by knowledge of the ongoing struggle in India for women's rights and its present complexities. The establishment of self-governance during the colonial period was influenced by the leadership of Mahatma Gandhi, whose discourse included the need to address recurrent issues affecting women in India, such as caste-based discrimination, harmful customary and religious practices and sexual violence. The historical struggle against patriarchy was also shaped by the role of the women's rights movements in exposing the root causes of inequality, discrimination and violence against women.

6. While due recognition of the complexities inherent to the country's size and diversity need to be taken into account, it is imperative that those are not used to explain, defend or justify violence against women or the failure to address it.

II. Manifestations of violence against women and girls, its causes and consequences

7. Violence against women in India is systematic and occurs in the public and private spheres. It is underpinned by the persistence of patriarchal social norms and inter- and intra-gender hierarchies. Women are discriminated against and subordinated not only on the basis of sex, but on other grounds, such as caste, class, ability, sexual orientation, tradition and other realities. That exposes many to a continuum of violence throughout the life cycle, commonly referred to as existing "from the womb to the tomb". The manifestations of violence against women are a reflection of the structural and institutional inequality that is a reality for most women in India.

A. Violence against women in the family

8. According to numerous interlocutors, the physical, sexual and psychological abuse of women in the private sphere is widely tolerated by the State and the community. The perpetrators include husbands, in-laws and other family members. Many victims live in family settings that are rooted in deeply entrenched patriarchal and customary practices that are sometimes harmful to women. The widespread socioeconomic dependency of women subordinates them to their husbands and other family members. The fear of social exclusion and marginalization, and the lack of effective responses to violence, keeps them in a context of continuous violence and intimidation.

9. Violence and killings linked to dowry payments are alarming across the country. Data from the National Crime Records Bureau reflect an increasing trend of crimes reported under the Dowry Prohibition Act since 2008, and a significant increase in such crimes since 2010.[1] Marriage is often used by the husband and/or his family to obtain property or other assets from the wife and/or her family, either directly or indirectly. While its practice has evolved through time, the payment of dowry today is based on the idea that women are a burden. It is also commonly considered to be crucial to ensure the safety of the bride, especially within poor communities. Despite the payment of dowry, many women and girls find themselves forced into a life of servitude and experience repeated acts of harassment, intimidation, sexual abuse and violence by their husbands and other family members as part of demands for more dowry.

10. "Honour crimes" are usually perpetrated by family members, often with the complicity of community leaders. Reasons range from a woman's refusal to be forced into marriage and retaliation for marrying the man of her choice, to refusal to follow prescribed and expected dress codes. Women and girls suffer a wide range of physical and psychological abuse and the denial of basic freedom of movement and expression, and are sometimes killed in the name of "honour".

11. Customary practices in the family and community point to a pattern of daughter aversion and son preference. Research has documented a trend of declining girl-child sex ratio from 962 per 1,000 males in 1981, to 945 in 1991, to 927 in 2001, to 914 in 2011.[2] Patriarchal norms and socioeconomic factors have reportedly fuelled the decline. The desire for sons has led to a "policing" of pregnancies by spouses and families through prenatal monitoring systems. The results can lead to sex-selective abortions, which are often forced on women in violation of their sexual and reproductive rights. Despite specific legislation to address this problem,[3] including stringent measures in case of contravention, there is a continuing prevalence of sex-selection practices in some states. Furthermore, some of those measures are perceived as the State policing pregnancies broadly and violating women's sexual and reproductive choices.

B. Violence against women in the community

12. Sexual violence, including rape and sexual harassment, is widespread across the country and perpetrated in public and private spaces. According to the National Crime

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[1] India, National Crime Records Bureau, *Crime in India 2012: Statistics* (2013), p. 81, table 5(A).

[2] United Nations Children's Fund (UNICEF), *The Situation of Children in India: A Profile* (2011), p. 36.

[3] Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, amended in 2003.

Records Bureau, in 2012, 2.84 cases of rape were reported every hour.[4] Many interlocutors stated that there was a general sense of insecurity for women in public spaces, especially in urban settings. Women are easy targets of attacks, including sexual violence, whether while using public transportation or sanitation facilities or on the way to collect wood and water. Many victims of sexual violence carry a deep sense of shame, which is further exacerbated by the stigma and exclusion they experience, especially from family members and the community, and which may result in suicide.

13. With regard to early and/or forced marriages, the implementation of the Prohibition of Child Marriage Act, 2006 has resulted in some reduction in the overall percentage of early marriages.[5] However, the high prevalence of such marriages continues to endanger the lives of girls, whether in respect of domestic violence, marital rape or early pregnancies. It also deprives them of numerous human rights, including the right to education and the enjoyment of their childhood.

14. The Special Rapporteur was informed about the high incidence of acid attacks on women in the country, despite the development of new legislative measures.[6] Victims of acid attacks are predominantly women who challenge patriarchal norms, including by opposing a marriage or partner proposal.[7] The disfiguring of the victim's face and body forces the survivors to live in stigma, shame and exclusion. It also creates a climate of fear for other women as regards the consequences of failing to abide by and respect traditional practices and roles.

15. Violence against various groups is also of concern. Dalit and Adivasi women and women from other scheduled castes and tribes and other "backward classes" are frequent victims of multiple and intersecting forms of discrimination, as well as violence. Caste-based discrimination, which also includes intra-caste hierarchies, continues to be pervasive and widespread. The intergenerational nature of caste-based discrimination condemns women to a life of exclusion, marginalization and disadvantage in every sphere of life. Many of those women are denied an education and economic opportunities, and perform dangerous and unprotected work, including bonded labour (debt bondage) and manual scavenging, which are both widely regarded as forms of forced labour and modern forms of slavery. Women represent the vast majority of manual scavengers in the country, and are commonly from scheduled castes and minority groups. While legislation has been adopted to eradicate bonded labour and manual scavenging,[8] reports and interlocutors indicate that there is a consistent failure in the implementation of such laws[9] and a tendency to minimize the significance of the problem.

16. Numerous testimonies shared on recurrent episodes of communal violence against religious minorities, including Muslims and Christians, reflect a deep sense of insecurity and trauma of women living in those communities. Experiences included women being

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[4] India, *Crime in India*, snapshots, p. 6.

[5] UNICEF, *The Situation of Children*, p. 31.

[6] Criminal Law (Amendment) Act, 2013, amendment of section 100 of the Penal Code.

[7] Avon Global Center for Women and Justice at Cornell Law School et al., "Combating acid violence in Bangladesh, India and Cambodia" (2011), p. 3. Available from http://www2.ohchr.org/english/bodies/cedaw/docs/cedaw_crc_contributions/AvonGlobalCenterforWomenandJustice.pdf.

[8] The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013, superseding the The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993; and the Bonded Labour System (Abolition) Act, 1976.

[9] Ravi S. Srivastava, "Bonded labour in India: its incidence and patterns", International Labour Organization working paper (2005), p. 35; and International Dalit Solidarity Network, "Manual scavenging", briefing paper (2012), p. 1.

stripped, burned, attacked with objects inserted into their vaginas and sexually assaulted in myriad ways because of their religious identity. It was reported that perpetrators of those crimes usually held positions of authority and often went unpunished. Further, those minorities are allegedly excluded from access to education, employment and adequate housing on equal terms with other citizens, despite the existence of affirmative action schemes and measures by the Ministry of Minority Affairs and the National Commission for Minorities aimed at empowering minority women through the provision of knowledge, tools and training.

17. Women employed as domestic workers are often irregular migrants and unregistered women who operate in a poorly regulated labour market and who are usually considered as belonging to the bottom of a social class. They become easy targets for abusive employers, who force them to work long hours in return for low salaries and often deduct amounts for leave days taken. Many are prevented from using the employer's sanitary facilities and are forced to defecate and bathe in public, and are subjected to various forms of harassment and violence. Many women are primary breadwinners, either as a result of widowhood or unemployed spouses, and their low pay makes it difficult to assume financial responsibility, including for their children's health and education needs. Alcohol abuse by husbands was also reported to be a contributing factor to the violence many of those women experienced.

18. Women with disabilities face multiple challenges, including, for example, the lack of adequate access to public spaces, utilities and buildings, and often experience harassment in public. The Special Rapporteur was informed of a troubling practice whereby a payment incentive was offered, either as a State scheme or a dowry from the family, in exchange for marriage to a woman with disabilities. She was also informed of violence perpetrated against women with disabilities in State-sponsored shelters.

19. Women in same-sex relationships and transgender women also confront violence and exclusion. Section 377 of the Penal Code criminalizes sexual activities "against the order of nature". This particularly affects the protection rights of lesbian and transgender women and has been used by parents as an excuse to prevent homosexuality in their families. The mere perception of different sexual orientation is sufficient to put people at risk of violence and is a contributory factor to the inability of the lesbian, gay, bisexual, transgender and intersex community to report cases of violence.[10]

20. Sex workers are exposed to a range of abuse, including physical attacks, and harassment by clients, family members, the community and State authorities. Many sex workers are forcibly detained and rehabilitated, and they also face a consistent lack of legal protection. Many face challenges in gaining access to essential health services, including for treatment for HIV/AIDS and sexually transmitted diseases. A recent order of the Supreme Court of India took the position that a sex worker engaged in such work to survive and was "not leading a life of dignity".[11] In her discussions with interlocutors, the Special Rapporteur noted a tendency to conflate sex work with trafficking in persons, and when sex workers are identified as victims of trafficking, the assistance that is provided to them is not targeted to their specific needs.

[10] In a recent decision, *Suresh Kumar Koushal and another* v. *Naz Foundation (India) Trust*, 2013, the Supreme Court, while setting aside the decision of the Delhi High Court on section 377 of the Indian Penal Code, ruled that the Parliament had to legislate on the issue and upheld section 377, as it still remained in the statutes of the country.

[11] See the order of the Supreme Court of India, criminal appeal No. 135 of 2010, *Budhadev Karmaskar* v. *State of West Bengal*, 2 August 2011, para. 12. Available from www.thehindu.com/multimedia/archive/00740/Supreme_Court_order_740930a.pdf.

21. Widows also face particular vulnerabilities, as they are often denied and dispossessed of property by their in-laws following the death of a spouse. In addition, social exclusion and poverty lead some widows to engage in sex work and prostitution, and their children to perform hazardous labour or beg on the streets.

22. The Special Rapporteur was also informed of brutal acts of violence against women, including executions, commonly referred to as "witch-hunting". The stigma that is attached to women who are labelled a "witch", and the rejection they experience within their communities, leads to various violations and is an obstacle to gaining access to justice. Such labelling affects family members across generations. There is reportedly little or no official investigation into such violations.

C. Violence against women condoned or perpetrated by the State

23. Women living in militarized regions, such as Jammu and Kashmir and the north-eastern states, live in a constant state of siege and surveillance, whether in their homes or in public. Information received through both written and oral testimonies highlighted the use of mass rape, allegedly by members of the State security forces, as well as acts of enforced disappearance, killings and acts of torture and ill-treatment, which were used to intimidate and to counteract political opposition and insurgency. Testimonies also highlight the impact of that situation on women's health, including psychological disorders such as post-traumatic stress disorder, fear psychosis and severe anxiety, with such conditions having a negative impact on women's physical well-being. Additionally, the freedoms of movement, association and peaceful assembly are frequently restricted. The specific legal framework that governs those areas, namely, the Armed Forces (Special Powers) Act and its variations, allows for the overriding of due process rights and nurtures a climate of impunity and a culture of both fear and resistance by citizens.

24. Violence against women in custodial settings remains a concern. In 2012 there were 20 women's prisons and 21 centres for the rehabilitation of juvenile offenders.[12] Furthermore there are rehabilitation centres for sex workers. Women account for 4.4 per cent of all inmates in the country.[13] Women prisoners are scattered across the country, often in violation of international standards aimed at ensuring that those wishing to maintain family relationships during custody can do so.[14] Concerns were raised about a lack of adequate protective measures to ensure the safety of inmates, including from gender-related killings. In 2012, 55 deaths of female inmates were registered, of which eight were suicides.[15] There was also a reported lack of access to essential services, including medical care, for inmates due to limited resources.[16]

25. Women were also found to suffer violence in the context of forced evictions. The State's efforts to foster economic growth and implement development projects are allegedly often conducted without adequate consultations with affected communities, with the sole objective being one of economic growth at any cost. The consequences for women include being forced to live in insecure environments, displacement, the degradation of their environment, the loss of land and livelihoods and forcible evictions. Many victims are left without adequate relocation alternatives, forcing them to live in slums or on the streets. The Government's twelfth Five-Year Plan, 2012–2017 includes elements to improve housing

[12] India, National Crime Records Bureau, *Prison Statistics India 2012*, snapshots, p. i.
[13] Ibid.
[14] See article 79 of the Standard Minimum Rules for the Treatment of Prisoners.
[15] India, *Prison Statistics*, snapshots, p. ii.
[16] Ibid., pp. 140 and 152.

conditions through a new slum rehabilitation programme and schemes to assist States to improve livelihood opportunities in urban areas.[17]

26. The Special Rapporteur noted concerns with regard to profit-oriented microfinance institutions involving microfinance products for women, and the failure of the State to protect and prevent abuses. Vulnerable women reportedly receive multiple loans and are sold financial products with little or no information, and the unequal bargaining power between such institutions and clients is not addressed by regulation. Such practices result in over-indebtedness and the inability to pay back, which leads to harassment and threats and women being excluded from their families and communities. Some have reportedly committed suicide as a result of such abuse. It is unclear if the larger problem is a lack of, or inadequate, regulation of microfinance institutions.

D. Violence against women in the transnational sphere

27. Many women refugees and asylum seekers are unskilled workers who often perform hazardous labour in urban and informal settings. While access to education and health care is provided for free by the Government, access to livelihoods is still a challenge, particularly in urban or semi-urban areas. Many of those women earn low wages and are forced to live in small and overcrowded apartments, with a lack of access to basic sanitation in less developed urban settings. Such factors contribute to poor health conditions and other vulnerabilities. Language barriers often impede their ability to gain access to health care, education and the justice system. Despite improvements in criminal law and police procedures, women refugees and asylum seekers continue to voice safety concerns, as they are frequent targets of attacks and harassment by employers, landlords and community members in public and private spheres.

28. The trafficking of women and girls from, and to, India was reported as widespread. Disadvantaged women from minority groups, scheduled castes and tribes and the "backward castes" are usually the main victims. Young unskilled women are allegedly given false work promises, resulting in forced domestic servitude in foreign countries. Women who are trafficked and forced into prostitution are left unable to defend their rights, and lack access to rehabilitation and compensation for such crimes. This lack of protection and prioritization of the problem by the State has intensified the violence perpetrated against them by criminals or those involved in trafficking practices. The complicity of State officials in human trafficking was also reported as a concern. The Immoral Traffic (Prevention) Act, 1956 and its amendments[18] are reportedly more directed at safeguarding public moral than combating trafficking in line with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[17] *Twelfth Five-Year Plan (2012–2017): Economic Sectors*, p. 338. Available from http://planningcommission.gov.in.

[18] See also the new sections 370 and 370A of the Penal Code (2013). Trafficking is introduced under section 370, which establishes stringent prison terms of 7 to 10 years for anyone who "for the purpose of exploitation (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons".

III. Implications of inequality, discrimination and violence on women's enjoyment of their human rights

29. The protection of human rights has advanced significantly since India achieved independence. The adoption of the first democratic Constitution in 1949 marked progress towards developing a normative framework conducive to the protection of women's human rights. For the first time, the Constitution recognized freedoms and rights of women, strengthened the principle of equality between men and women and afforded legal protection to all, without discrimination on the basis of sex, among other criteria. It also allowed for affirmative action measures for women.

30. India has ratified numerous international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

31. At the national level, laws and policies have been put in place to prevent and respond to violence against women. These include the Penal Code, the Criminal Law (Amendment) Act 2013, the Sexual Harassment of Women at Workplace (Prohibition, Prevention and Redressal) Act, 2013, the Protection of Women from Domestic Violence Act, 2005, the Indecent Representation of Women (Prohibition) Act, 1986, the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the Dowry Prohibition Act, 1961, the Commission of Sati (Prevention) Act, 1961, the Immoral Traffic (Prevention) Act, 1956 and the Bonded Labour System (Prohibition) Act of 1976, among others. Despite those positive developments, effective implementation of those laws and the allocation of financial resources to support their execution adequately is reportedly lacking in many instances.

A. Civil and political rights

32. In terms of women's participation in political and public affairs, significant challenges remain at both the national and local levels. According to the Inter-Parliamentary Union, India ranks 111th of 188 States in terms of women's participation in parliaments.[19] The Special Rapporteur was informed that a bill aimed at reserving one third of all seats for women in the lower house of the Parliament (the Lok Sabha) and the State legislative assemblies was still outstanding.[20] In terms of the judiciary, the proportion of female judges is very low.[21] At the local level, citizens may participate in community-level self-government institutions, named Gram Panchayats (village councils). The Special Rapporteur regrets that she was not able to engage directly with that sector of Government, despite her requests.

33. Measures have been put in place to ensure greater representation of women in positions of authority in village councils, including women belonging to marginalized groups. The Government has also piloted a programme for women Gram Panchayat representatives, who would serve as counsellors for women victims at the community level. Their main function is to facilitate information-sharing on issues relating to women, and

[19] Inter-Parliamentary Union, "World classification" (January 2014). Available from www.ipu.org/wmn-e/classif.htm.

[20] The Constitution (108th Amendment) Bill, 2008, known as the Women's Reservation Bill.

[21] For a list of Supreme Court and High Court judges, see http://doj.gov.in/?q=node/86.

forge interdepartmental links within states. However, there have been numerous allegations of abuse of authority by and patriarchal attitudes of women elected to Gram Panchayats (whether by choice or through coercive influences), and of abuse by community leaders, including members of the illegal[22] informal courts of the Khap Panchayats.

34. The lack of registration and the difficulty in obtaining an identity card were noted as impeding women's participation in public life, including their access to essential services. No information was available to ascertain the measures in place to address that problem.

35. Fair trial rights, equality before the law and equal protection of the law were affected by numerous challenges, beginning with the reporting of cases of violence against women to the police. Many interlocutors said that victims were often discouraged from reporting to the police and that many women did not file a complaint owing to fear of reprisals or lack of guarantees of adequate shelter and access to livelihoods. Informal dispute settlement alternatives are often sought, allegedly by police, family members or community leaders. Many interlocutors described the complete or partial absence of legal, housing, security and financial assistance measures for victims. To be able to officially report complaints and continue throughout the often lengthy judicial process in safety and with an adequate standard of living is not an option for many women.

36. The Special Rapporteur received information indicating that human rights defenders, including women's organizations, face numerous challenges, including harassment, intimidation and reprisals. Those concerns echo the findings contained in the 2011 report of the Special Rapporteur on the situation of human rights defenders (A/HRC/19/55/Add.1), the 2012 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/23/47/Add.1 and Corr.1) and concerns voiced during the universal periodic review of India in 2012.

B. Economic rights and the right to development

37. India recently underwent a significant wave of reforms to liberalize its economy, which has resulted in unprecedented growth and prosperity. Economic growth reportedly constitutes an overriding priority in the run-up to the May 2014 general elections. The country's twelfth Five-Year Plan, 2012–2017 is focused on economic sustainability and is aimed at making such growth irreversible. Unfortunately, the economic development focus for women remains one of subsistence and does not necessarily take into account, or address sufficiently, the gendered and class nature of systemic and structural inequality and discrimination. Gender budgeting, as a tool to establish gender differential impacts and to ensure that gender commitments are translated into budgetary commitments, was highlighted by the Ministry of Women and Child Development.[23] However, its implementation across the country is not consistent.

38. Whereas the participation of all citizens in the economy is considerable, women's labour force participation is significantly lower, at 25.7 per cent, as compared to men, at 77.4 per cent.[24] Moreover, job opportunities for women are in decline.[25] Women are also

[22] See India, Governance Knowledge Centre, "Supreme Court accepts recommendation to ban Khap Panchayats", 12 November 2012. Available from http://indiagovernance.gov.in/news.php?id=1816.

[23] India, Ministry of Women and Child Development, "Budgeting for gender equity", http://wcd.nic.in/.

[24] India, Ministry of Labour and Employment, "Report on the Second Annual Employment and Unemployment Survey (2011–12)", press note, third page. According to the Ministry, the annual unemployment rate stands at 3.8 per cent (ibid.). An International Labour Organization source indicates that the participation of women in the workforce fell from 37.3 per cent in 2004/05 to 29.0 per cent in 2009/10; only 44 per cent of the decline can be explained by the increased enrolment of

found in precarious jobs requiring low skills and offering low and unequal wages. According to official statistics, the general trend of daily earnings for women in recent decades has been comparatively lower than those of men in virtually all sectors, including manufacturing, mining and service sectors.[26]

39. Labour legislation in India provides for safeguards to ensure respect for the rights of women at work, and schemes are in place to help women improve their skills in specific occupations, thus moving beyond subsistence labour skills. For example, there are training institutes to help women gain access to the labour market, including industrial training institutes, with 14,059 centres across the country. Public/private schemes have been designed by companies and public institutions to provide training for women in key industrial areas, but there is no commitment to future employment in those companies.

40. Legal measures have been instituted to address sexual harassment in the workplace. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 defines sexual harassment comprehensively and is largely in line with the 1997 Vishaka judgement.[27] It provides for complaints committees in all workplaces employing at least 10 persons. Moreover, while penalties are prescribed in the event of a false or malicious complaint, the Act seeks to prevent the revictimization of victims who are unable to provide adequate proof or substantiate a complaint.

41. In terms of safety and health at work, in 2009 the Government instituted the National Policy on Safety, Health, and Environment at the Workplace, including an action programme for implementation, which is to be reviewed every five years. The policy is guided by constitutional principles relating to work, which include maternal protection, health and strength at work, prohibition of child labour, and participation in decision-making.[28]

42. Microcredits are used widely in the country, particularly by poor and vulnerable women. Most loans are provided by microfinance institutions, including non-banking financial (or "Section 25") companies. Despite concerns about a lack of adequate regulation and abusive practices, the adoption of legislation at the Union level, such as the Micro Finance Institutions (Development and Regulation) Bill, 2011 is still pending. Some States have adopted legislative frameworks, but the overall view is that those institutions operate in a largely unregulated market.

43. In terms of the prohibition of slavery and slavery-like practices, such as bonded labour, the Bonded Labour System (Prohibition) Act, 1976 was enacted as a deterrent.

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women in secondary education (International Labour Organization *Global Employment Trends 2013*, p. 78, available from www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_202326.pdf).

[25] Occupational sectors where women are likely to be concentrated, which include basic agriculture, sales and elementary services and handicraft manufacturing, have not created new employment. See International Labour Organization, "India: Why is women's labour force participation dropping?", 13 February 2013. Available from www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_204762/lang--en/index.htm.

[26] India, Labour Bureau, Statistics: Occupational Wage Surveys. Available from www.labourbureau.gov.in/OWS%20New%20Table.htm.

[27] See Supreme Court of India, *Vishaka and others* v. *State of Rajasthan and others*, 1997. Available from www.iiap.res.in/files/VisakaVsRajasthan_1997.pdf.

[28] Constitution, Directive Principles of State Policy, Part IV.

C. Social and cultural rights

44. Pervasive gender stereotyping, whether in the media, in the community or in discourses by public officials, was highlighted as an impediment to women's development. The pervasive culture of denigrating and marginalizing women's perspectives, concerns and also their identity was an issue that was raised by several interlocutors. Concerns were also raised about the resulting impact on the social standing of women. According to official data, between 2011 and 2012 the number of cases involving insult to the modesty of women increased by 7 per cent.[29] In 1986, the Indecent Representation of Women (Prohibition) Act was enacted to prohibit indecent representation in advertisements, publications, writings and paintings or in any other manner. New amendments have been proposed to include new forms of communication, to strengthen penalties and to provide for preventive measures. No official information was shared as to accountability measures to address the continuing occurrence of such stereotyping by either State or non-State actors.

45. Effective implementation of legislation is dependent on the cultural and social norms that exist in a society. Women's role in participating and shaping such norms is essential, but is dependent on whether gender equality is the dominant culture and whether the status of women allows for their effective participation. As indicated above, women's participation in shaping the culture of equality is restricted by the dominant patriarchal culture that is deeply entrenched and pervasive.

46. Many interlocutors also pointed to the denial of the rights to social goods such as education, health and social benefits as a barrier to the fulfilment of the rights necessary for a life of dignity.

IV. Challenges in fulfilling the State's obligation to act with due diligence to eliminate violence against women

47. States are required to exercise due diligence to prevent and respond to all acts of violence against women. A comprehensive system of prevention and protection, with real prospects of mitigating harm, altering outcomes and ensuring accountability, must be the norm.

48. A framework of analysis to assess the obligation of India to prevent, protect, investigate, prosecute and punish, and provide for effective redress measures for acts of violence against women, in accordance with international and national law, is provided below.

A. Prevention

49. Violence against women became a priority political issue following the brutal gang rape, on 16 December 2012, and tragic death of a young student in New Delhi. The outrage and condemnation that followed in India, and beyond, was accompanied by widespread social mobilization of citizens demanding justice, accountability and more protection for women and girls. As a consequence, the Verma Committee was established by the Government to review existing normative gaps. The committee's January 2013 report included observations and recommendations on addressing sexual violence in the country, with respect to, inter alia, reforms to the police, judiciary, political institutions and

[29] India, *Crime in India* (footnote 1 above), p. 84.

education; improvement of security in public spaces; and protection in the family. The recommendations led to the adoption of new legislation, notably the new Criminal Law (Amendment) Act, which recognizes acid attacks as a new criminal offence; provides for penalties for sexual harassment, assault against or use of criminal force on a woman with the intent to disrobe, voyeurism and stalking; introduces the crime of trafficking; and criminalizes rape and gang rape. The Act improved the legislative framework significantly, introducing new criminal offences and stronger sanctions.

50. However, the laws that were adopted did not fully reflect the recommendations of the Verma Committee. The opportunity to adopt a holistic approach to violence against women, including addressing the root causes and consequences of such violence, was lost. In fact, the Criminal Law (Amendment) Act failed to: criminalize existing beliefs and practices linked to chastity; protect women with disabilities, unmarried women, lesbian, gay, bisexual and transgender persons, religious minorities, and girls below 18 years of age from sexual violence; or recognize marital rape as a criminal offence. Moreover, gang rapes and mass crimes involving brutal acts of sexual violence are not considered as multiple crimes against women, but as a single punishable crime under this law. Many concerns were raised about the deterrent effect of the application of the death penalty, as provided for in the Act. This is a statutory option for the courts in cases of gang rape where a perpetrator is a repeat offender, or if sexual violence results in the death of the victim, or puts the victim in a permanent vegetative state. It is of concern that conviction in such cases may entail higher evidential burdens for the victim, since the death penalty is a consideration in sentencing. The current legislative framework is therefore still in need of reform.

51. Serious concerns were expressed with regard to the insensitive and taunting attitude of some members of Parliament with regard to the Criminal Law (Amendment) Act. The Special Rapporteur regrets that some political leaders are not fully committed to the process of legal and social change as regards women's human rights.

52. The Protection of Women from Domestic Violence Act, 2005 seeks to protect, and prevent harm to, women who are or have been abused by a male spouse or a family member. The law broadly defines domestic violence and upholds the right of victims to live in the household, irrespective of title rights, and has a number of provisions for the issuing of protection orders. Other aspects include procedures for obtaining relief, such as financial assistance, and a detailing of the role and powers of service providers.

53. The National Mission for Empowerment of Women has a National Mission Authority at the apex level under the Chairmanship of the Prime Minister. It is mandated to ensure policy convergence among ministries and state governments and to strengthen the overall processes that promote the all-round development of women. The Mission facilitates the convergence of gender-sensitive schemes for women; carries out research, awareness-raising, education and capacity-building activities; and works to strengthen the institutional framework. However, challenges were noted in terms of collaboration with some states, notably those in which the ruling political party was different to that of the central Government. Moreover, some interlocutors noted that the budget allocation for women's issues was much lower than that for children's issues in the Ministry of Women and Child Development. The Mission confirmed the lack of gender programmes in that ministry, and also the need to designate gender convergence officers in every ministry to address the gaps.

54. As regards early marriages, good practices were reported in Rajasthan, whereby specialized local officers were assigned to conduct prevention activities. Despite some positive developments, there are significant gaps in the legislation, particularly in the Penal

Code, whereby child marriages are allowed through the practice of declaring them voidable, not void, despite the protection provided in the Prohibition of Child Marriage Act, 2006.[30]

55. The prevalence of dowry-related practices throughout the country was raised as a serious concern. The Dowry Prohibition Act prohibits the giving of, taking of and demand for dowry, and establishes dowry prohibition officers to ensure the implementation of the law. Data from the National Crime Records Bureau reflects an increasing trend of reported dowry-related deaths since 2008.[31] Concerns about the lack of effective implementation of the law were noted.

56. In order to better address "honour crimes", the Law Commission of India issued a report entitled "Prevention of interference with freedom of matrimonial alliance (in the name of honour and tradition): a suggested legal framework", in August 2012. While the report is only recommendatory in nature, the Special Rapporteur was informed that such recommendations are given due consideration by the Government.

57. National human rights institutions are crucial to promoting and monitoring the effective implementation of legislation and the State's obligations under both national and international law. India has the National Human Rights Commission and 23 state human rights commissions dealing with human rights. The National Human Rights Commission has a broad human rights mandate, which includes women's rights. The National Commission for Women has the specific mandate to review constitutional and legal safeguards for women, recommend remedial legislative measures, facilitate redress of grievances, including on violence against women, and advise the Government on all policy matters affecting women.

58. The Special Rapporteur received reports indicating that the legal basis of the National Commission for Women is not in accordance with international standards; that the institution lacks foundational, functional, operational, political and financial independence; and that the Commission is generally unable to adapt to the evolving and transformative demands of the human rights of women. According to section 3 of the National Commission for Women Act, 1990, the Commission's composition is determined by the central Government. A number of allegations highlighted the Commission's inability to deal with complaints effectively and undertake independent investigations into violations of women's rights. Reports also reflect the Commission's failure to address the causes and consequences of violence against women, including, for example, by finding that no particular religious group was targeted during the 2002 Gujarat massacre;[32] by consistently

[30] In 2012, the Delhi High Court held that: "Consent below the age of 16 years is immaterial, except when the rape is committed by a male who is married to the girl. Section 376 [Indian Penal Code] does not treat the rape committed by a husband on his wife above the age of 15 years as an offence". Moreover, the Court also held that the marriage was not void but voidable: "if the girl is more than 16 years, and the girl makes a statement that she went with her consent and the statement and consent is without any force, coercion or undue influence, the statement could be accepted". According to section 3 of the Prohibition of Child Marriage Act, such marriages are "voidable at the option of the contracting party who was a child at the time of the marriage". See the Court's judgement of 27 July 2012 on the Hindu Marriage Act, 1955, paras. 47 and 51. Available from www.delhicourts.nic.in/July12/Court%20on%20its%20own%20Motion%20Vs.State.pdf.

[31] India, *Crime in India*, p. 81.

[32] See *Report of the Committee Constituted by the National Commission for Women to Assess the Status and Situation of Women and Girl Children in Gujarat in the Wake of the Communal Disturbance*, (2002). See also "NCW faces flak for riot report", *Times of India*, 26 April 2002. Available from http://articles.timesofindia.indiatimes.com/2002-04-26/ahmedabad/27114492_1_ncw-cases-of-sexual-assault-women-and-children.

justifying sexual assault on women as a result of "provocative dressing";[33] by its inability, over many years, to promote much needed law reform; and by denying reports of sexual violence by security forces, including in regions governed by the Armed Forces (Special Powers) Acts.

B. Protection

59. The lack of implementation of the Protection of Women from Domestic Violence Act was a concern often raised. Under the Act, women victims require the assistance of a protection officer to lodge a complaint and to file a domestic incident report. The recruitment and deployment of protection officers in the country is limited; they often work part-time and lack the resources to assist victims to file complaints. For instance, in the State of Rajasthan, with a population including approximately 27 million women,[34] there are only 607 designated protection officers and 118 organizations registered as service providers.[35] The inadequacy of resources to provide a mandatory service is a reflection of a failure to act with due diligence. The Special Rapporteur was informed that the central Government is considering providing financial assistance to states to fund full-time protection officers. In addition, concerns were raised with regard to the lack of protection for people in same-sex relationships, due to the language in the law as regards jurisdiction.

60. Although telephone hotlines are available, the police are usually the first point of contact for many women, according to reports received. Victims of violence, who require from the State special security, shelter, public housing, health care and socioeconomic protection, often face significant challenges. Many services are channelled through providers that lack sufficient resources. Numerous allegations were made of de facto caste-based discrimination, perpetrated by police officers, public representatives and community members, with regard to access to services.

61. Another concern highlighted was that the criminal justice system does not operate fully on the basis of the rule of law in accordance with international standards. The Special Rapporteur was informed of cases in which courts have criminalized women victims of violence, including victims of sexual and communal violence. Also repeatedly raised was the concern that legal aid, a right guaranteed in article 39A of the Constitution, was not equally granted to women in practice, and in particular to poor and marginalized women.

C. Investigation, prosecution and punishment

62. Concerns were voiced with regard to the investigation of cases and the prosecution and punishment for crimes committed against women. The proportion of women in the police and in the judiciary is seriously low, which contributes to a lack of attention to women's issues.

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[33] See, for example, "Guwahati molestation: NCW chief Mamta Sharma advises women to dress 'carefully'", *India Today*, 18 July 2012. Available from http://indiatoday.intoday.in/story/guwahati-molestation-ncw-chief-mamta-sharma-advises-women-to-dress-carefully/1/208869.html. See also Sonal Makhija and Swagata Raha, "A review of the working of the Karnataka State Human Rights Commission and the Karnataka State Commission for Women", Daksh & Accountability Initiative, April 2011, sec. 5.2.2. Available from www.accountabilityindia.in/sites/default/files/daksh_kshrc_kscw_apr_2011.pdf.

[34] 2001 census.

[35] Interview with representatives of the government of Rajasthan.

63. Deeply entrenched patriarchal attitudes of police officers, prosecutors, judicial officers and other relevant civil servants, with regard to the handling of cases, further contribute to victims not reporting, withdrawing complaints and not testifying. Also, the attitudes and prejudices of many village leaders in Khap Panchayats, who act as informal judicial officers, often lead to a pre-arranged settlement between the families, thus failing to provide effective redress for victims. Few police stations have specialized women's mechanisms to address the concerns of women, including violence cases, and to provide the assistance and protection that is required during the investigation phase. Impunity for abuses committed by police officers and the need for civilian oversight was highlighted.

64. Concerns were also raised about evidence gathering, including the practice of degrading medical and forensic examinations, such as the "two-finger test" for victims of sexual violence. The test is often carried out without the victim's consent, and despite the practice being officially discontinued by the Director General of Health Services in 2011, and a Supreme Court decision of 2013 branding it as a violation of the victims' right to privacy.

65. The Special Rapporteur heard complaints about the failure by the justice system in some states to ensure that women victims and witnesses of acts of violence benefit from adequate safety measures and judicial safeguards. Numerous allegations were received of women being subjected to acts of coercion and duress in a deliberate attempt to prevent the investigation of cases and punishment of perpetrators. Other accounts highlight the denial of the right of women to a fair trial, owing to a failure to receive legal assistance to pursue their cases.

66. The overall conviction rate in India for crimes listed in the Penal Code was 38.5 per cent in 2012, the lowest in 10 years, largely owing to delays in the finalization of cases.[36] According to the National Crimes Records Bureau, the average conviction rate for crimes against women is 21.3 per cent for cases of kidnapping and abduction of women and girls, assault on women, insult to the modesty of women, cruelty by family members and trafficking of girls.[37] Moreover, the annual analysis provided by the Bureau indicates that in 2012, reports of crimes against women had increased by 6.8 per cent over 2011 and by 24.7 per cent over 2008.[38] The proportion of registered cases of crimes committed against women vis-à-vis crimes in total increased from 8.9 per cent in 2008 to 10.2 per cent in 2012.[39] The low conviction rate and the higher number of cases registered will not act as a deterrent for future crimes against women, nor will it engender trust in the judicial system.

67. Impunity for crimes relating to communal violence is the norm. The recommendations of the Committee on the Elimination of Discrimination against Women relating to the Gujarat massacre (CEDAW/C/IND/CO/SP.1) have not been fully addressed as yet. Moreover, the draft Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill has been pending in Parliament for over eight years; despite the necessity for such a law.

68. In terms of the Armed Forces (Special Powers) Act and the Armed Forces (Jammu and Kashmir) Special Powers Act, 1990, which provide a wide range of powers to the army, the Special Rapporteur was informed that their powers are broader than those

[36] India, *Crime in India*, p. 77. By the end of 2012, 84.6 per cent of criminal cases under the Penal Code remained pending for trial in various courts of the country (ibid., p. 73).

[37] Ibid., Figures at a Glance–2012.

[38] Ibid., p. 81. By number of crimes registered as cases of violence against women, the tendency also increased significantly, from 143,795 in 2001 to 244,270 in 2012 (ibid., Additional Tables, "Cases registered under crimes against women in India during 2001–2012").

[39] Ibid., p. 81.

permissible under states of emergency. Under the Acts, special powers are granted to the security forces in the "disturbed" regions of Jammu and Kashmir and the north-eastern States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. Due to the enforcement of those laws, numerous allegations of human rights abuses were shared. These include violations of the right to life; sexual violence; arbitrary detention; torture and ill-treatment; violations of freedom of movement, expression, peaceful assembly and association; and violations of due process and equal protection before the law. The Special Rapporteur was not informed of any measures to ensure accountability and redress for victims. On the contrary, reports have been received alleging a total disregard of the non-derogable nature of some rights, provided for in article 4 of the International Covenant on Civil and Political Rights, and also an overall failure to justify restrictions of fundamental freedoms in a manner that is in compliance with the Covenant, a requirement reiterated by the Human Rights Committee on numerous occasions.[40] Moreover, the Army Act, 1950 limits the scope for civil courts to consider allegations of violence against women perpetrated by army officials, including killings and sexual violence. According to that legislation, only victims not subjected to military, naval or air force law can access civil courts, which effectively excludes persons living in the territories under the Armed Forces (Special Powers) Acts.

D. Provision of effective redress, including reparations

69. As noted above, the Special Rapporteur was not provided with data on any measures to ensure redress for women victims of violence in the areas under the Armed Forces (Special Powers) Act and its variations. The norm of impunity that governs those territories is of great concern, as victims and their families are prevented from exercising their right to know the truth about violations, have no access to effective remedies and are not given guarantees of non-recurrence.

70. With regard to systemic failures, the low rate of prosecution and conviction for acts of violence against women contributes to the lack of effective redress provided to victims. Redress begins with the filing of domestic incident reports and a First Information Report. As noted above, this is deficient in many respects. Compensation payment is dependent on the filing of a case, which is dependent on the availability of protection officers and the provision of some form of legal identification. Women belonging to marginalized groups, including irregular migrants, domestic workers, scheduled castes and tribes and so-called backward castes are often unregistered citizens, or lack identification cards. Such factors contribute to a culture of normalization of violence against women.

71. Women experience obstacles in gaining access to mechanisms of redress, including legal aid, counselling services and shelters. They are also revictimized and exposed to further risk of violence through the denial of redress in the context of informal trials or negotiations between families and community leaders. The payment of financial compensation by the perpetrator or his family for acts of violence against women, in lieu of legal remedies, was a recurrent concern *vis-à-vis* the formal and informal justice systems.

[40] See Human Rights Committee general comments No. 27 (1999) on freedom of movement, para. 13; No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 6 and No. 34 (2011) on the freedoms of opinion and expression, para. 21.

E. Remedies for specific groups at risk

72. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 lists the entitlements for persons with disabilities and the obligations of the central and state Governments and local bodies. The Act contains no provisions to address the specific needs of women with disabilities who are victims of violence. Responses to violence against women with disabilities often fail to adapt to the type of impairment, whether psychological, physical, sensory or intellectual. Moreover, reports highlight a consistent lack of disaggregated data collection on disabilities, which renders the violence committed against women with disabilities invisible. In 2006, the Government issued a National Policy for Persons with Disabilities which, according to information received, needed to be harmonized with the Convention on the Rights of Persons with Disabilities.[41] Following the ratification by India of the Convention, a new bill amending the 1995 Act was proposed, with specific provisions to protect women from violence.[42]

73. In 2012, the Government expanded protection to refugee women, by allowing all refugees recognized by the United Nations High Commissioner for Refugees to apply for long-stay visas and work permits. This allowed refugees and asylum seekers access to health and education services on equal terms with Indian citizens. However, adequate measures are still required to ensure access to these services by women, including those who have been forcibly displaced within the country. Reports indicate that many victims do not have access to the necessary services provided by the women's protection clinics of the Office of the United Nations High Commissioner for Refugees, as those are either not present in the area where they live or lack sufficient resources. Specific programmes are needed to address the lack of livelihood opportunities for refugees and asylum seekers, as they are often excluded from gaining access to services and participating in decision-making.

74. The Special Rapporteur was informed that the draft Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill envisages offering protection to religious and linguistic minorities and to scheduled castes and tribes, while providing standards for addressing communal violence. The Bill reaffirms the importance of non-discrimination when public officials discharge their responsibilities, in particular with regard to addressing violence against religious and linguistic minorities and scheduled castes and tribes. However, as noted by the Committee on the Elimination of Discrimination against Women, the Bill should include, inter alia, "a comprehensive system of reparations for victims of such crimes; and gender-sensitive victim-centred procedural and evidentiary rules" (CEDAW/C/IND/CO/3, para. 25).

V. Conclusions and recommendations

75. **The Government of India has recognized the need to address violence against women as a human rights violation, and also as an issue that detracts from the country's path to prosperity and inclusive development. It has taken legislative measures in that regard, including measures to address rape and sexual violence. However, significant gaps remain in the legislative framework as regards the failure to**

[41] National Human Rights Commission, *Know Your Rights: Rights of Persons with Disabilities* (2010), p. 17.

[42] Draft Rights of Persons with Disabilities Bill, 2012. Available from http://socialjustice.nic.in/pdf/draftpwd12.pdf.

recognize all forms of violence against women and to adopt a holistic approach that addresses the root and structural causes of violence against women. Moreover, there is a lack of effective remedies to address the main manifestations of violence against women, owing either to the absence of specific programmes or to a lack of implementation. The inability to ensure accountability and redress for victims has led to an increase of violence against women and the continued discriminatory treatment of victims.

76. **The persistence of harmful practices, pervasive gender stereotypes and deeply entrenched patriarchal social and cultural norms is of serious concern. Based on the idea of superiority of men over women, those manifestations exacerbate women's position of dependence and subordination and significantly obstruct effective implementation of relevant legislative and policy measures. Without a comprehensive effort to address them, in schools or university, at work, in the family, in the community and in printed and electronic media, the elimination of violence against women remains a challenge. It is essential that the authorities do not underestimate the negative effects of this challenge in their efforts to eliminate all forms of violence against women.**

77. **The Special Rapporteur would like to address the recommendations listed below to the Government.**

Law and policy reforms

78. **The Special Rapporteur recommends that the Government:**

(a) Ratify all outstanding international human rights instruments;

(b) Withdraw the declarations and reservation to the Convention on the Elimination of All Forms of Discrimination against Women, in particular regarding articles 5 (a); 16, paragraphs 1 and 2; and 29, paragraph 1;

(c) Amend the Criminal Law (Amendment) Act, 2013 and in particular review the provisions that provide for the death penalty in section 376A; include a definition of marital rape as a criminal offence; expand the scope of protection of the law and include other categories of women, including unmarried women, lesbian, transgender and intersex women, religious minorities and underage citizens; and define gang rape as multiple crimes requiring appropriate punishment (section 376D);

(d) Repeal section 377 of the Penal Code, which criminalizes consensual same-sex behaviour;

(e) Review the Immoral Traffic (Prevention) Act, 1956 that de facto criminalizes sex work and ensure that measures to address trafficking in persons do not overshadow the need for effective measures to protect the human rights of sex workers;

(f) Repeal, as a matter of urgency, the Armed Forces (Special Powers) Act and the Armed Forces (Jammu and Kashmir) Special Powers Act and ensure that criminal prosecution of members of the Armed Forces is free from legal barriers;[43]

(g) Adopt the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2005 and ensure that the Bill incorporates the recommendations of the Committee on the Elimination of Discrimination against Women in that regard (CEDAW/C/IND/CO/3, para. 25);

[43] See also A/HRC/23/47/Add.1, para. 101.

(h) Adopt the Indecent Representation of Women (Prohibition) Bill, 2012, to ensure that gender stereotypes are also banned in electronic media;

(i) Ensure women's participation in elected parliamentary bodies, through the adoption of legislation, including the Women's Reservation Bill;

(j) Ensure a rights-based approach in the Rights of Persons with Disabilities Bill, 2012, in line with international standards;

(k) Strengthen the implementation of the Protection of Women from Domestic Violence Act, 2005, by:

(i) Allocating sufficient resources to ensure that an adequate proportion of protection officers are employed;

(ii) Ensuring that protection officers are properly equipped to conduct their activities, in terms of administrative and logistical resources, and that funds are made available for their full-time employment;

(iii) Ensuring that the systems and procedures established under the Act are adequately adapted to deal with violence against women with disabilities;

(l) Ensure that police stations are equipped with sufficient and trained human and financial resources to handle all cases of violence against women and establish specific gender mechanisms, where possible;

(m) Take effective measures to ensure that the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is adequately implemented, in particular with regard to the establishment and functioning of the complaints system;

(n) Harmonize the framework of the National Commission for Women Act, 1990, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), to ensure independence, transparency and accountability. In particular:

(i) Amend the Act to ensure a system for the nomination and selection of the Commission's members and chairperson that is transparent, democratic and non-partisan; apply an eligibility criteria for membership with clear requirements regarding expertise and professional experience on women's issues; prohibit members of Parliament or state legislatures or persons connected with political parties from being appointed; apply the same selection principles as regards staff; and allow the Commission more autonomy in appointing its own personnel;

(ii) Further ensure that the Commission is empowered to undertake independent investigation into alleged violations of women's rights;

(iii) Undertake a comprehensive qualitative review of the performance of the Commission, in particular with regard to its achievements in addressing violence against women and systemic, gender-related social, economic and legal issues pertaining to women, including accountability for crimes against women;

(o) Take appropriate measures to address the situation of irregular and domestic migrant women, including women refugees and asylum seekers; strengthen temporary special measures, including by ensuring that they are included in governmental and National Commission for Women programmes and projects, to enable them to better access services and improve their participation and representation in public life; strengthen and expand the services of the women protection clinics across the country;

(p) Make available increased resources to support income-generating activities for women, including marginalized women and women with disabilities. In that context, adopt the Micro Finance Institutions (Development and Regulation) Bill, 2011 to ensure that microfinance institutions operate within a single regulatory framework to eradicate poverty and extreme poverty in accordance with international standards, including through transparent pricing, the provision of adequate financial products and the prohibition of multiple lending, which results in over-indebtedness;

(q) Take measures to ensure that displaced populations and evicted families have adequate access to livelihoods, including access to health and education;

(r) Establish an independent national inquiry mechanism to review the current situation and challenges with regard to the fulfilment of women's human rights;

(s) Ensure that programmes and projects designed for women are periodically and qualitatively reviewed;

(t) Consider adopting a State policy to address the structural causes of all levels of poverty of women;

(u) Intensify efforts to ensure that training initiatives for women are designed to improve access to all occupational groups and industries.

Accountability

79. **The Special Rapporteur recommends that the Government:**

(a) Take effective measures to ensure access to justice and effective redress for all victims of violence against women. In particular, it should:

(i) Ensure that the full ban on Khap Panchayats by the Supreme Court is implemented throughout the country;

(ii) Ensure that cases of violence against women are addressed by the judiciary and not by informal justice mechanisms;

(iii) Monitor the implementation of judicial decisions on cases relating to violence against women, and ensure that victims have prompt access to effective remedies;

(iv) Ensure that all allegations of violence against women are adequately investigated by the police, and that perpetrators are punished;

(v) Ensure that women and family members wishing to lodge complaints are free from any act of intimidation, threat or harassment, and that protection is provided free of cost for the victim, if necessary;

(vi) Ensure legal, housing, security and financial assistance measures for victims of violence that enable them to pursue accountability for crimes and also to rebuild their lives.

Societal transformation, including awareness-raising, addressing gender stereotypes and women's empowerment

80. **The Special Rapporteur recommends that the Government:**

(a) Design and launch a comprehensive training and awareness-raising programme for police officers charged with the responsibility of filing complaints of violence against women, including First Information Reports and domestic incident reports;

(b) Design and launch targeted awareness-raising campaigns at the community level on harmful customary practices, including, inter alia, dowry-related practices, acid attacks, so-called honour crimes and witch-hunting;

(c) Carry out measures to train and sensitize media on issues relating to women's rights and violence against women in particular, so as to contribute to changing cultural and social beliefs based on patriarchal norms that perpetuate harmful stereotypes and myths about women;

(d) Develop and implement, in cooperation with international partners and civil society, capacity-building and training activities for service providers, including public officials, members of Parliament and the judiciary, health-care professionals and others, on issues relating to violence against women.

Statistics and data collection

81. **The Special Rapporteur recommends that the Government:**

(a) Strengthen the current system hosted by the National Crime Records Bureau of the Ministry of Home Affairs for the collection and analysis of data relating to crimes against women, by disaggregating data by sex, age, caste, disability, religion, language and other relevant characteristics;

(b) Establish intergovernmental linkages among the ministries responsible for gender-related work to ensure consistent and standardized collection of data by each respective ministry;

(c) Periodically conduct a thorough analysis of data, to understand the different trends and evolutions of manifestations of violence against women;

(d) In cooperation with civil society organizations, develop monitoring and evaluation tools to assess progress in eradicating violence against women and integrate such tools in the design of relevant schemes and programmes.